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RIGHTS OF THE CHILD

Additional report of the Special Representative of the Secretary-General for Children and Armed Conflict, Mr. Olara A. Otunnu, submitted in accordance with General Assembly resolution 55/79

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Executive Summary

The Commission on Human Rights should base its consideration of the work of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict in large part on two documents: the recent report of the Special Representative to the General Assembly (A/55/442), which gives a comprehensive account of the activities undertaken by his office since October 1999, and the Report of the Secretary-General on children and armed conflict to the General Assembly and the Security Council (A/55/163-S/2000/712) of July 2000, which provides a comprehensive overview of, and 52 recommendations to address, the issue of war-affected children. This report to the Commission on Human Rights should be seen as an additional document highlighting issues of particular relevance to the work of the Commission and providing fresh recommendations.

In 2000, the Office of the Special Representative addressed the question of impunity for violations of children's rights, both in the context of the Special Court for Sierra Leone and in the work of the Steering Committee on Children and Justice. Part of the debate about the creation of a Special Court for Sierra Leone has focused on the issue of accountability for those who were between 15 and 18 years of age at the time of the commission of the alleged crimes. This report outlines some of the arguments presented in the context of this debate and discusses the ongoing effort by the Office of the Special Representative to explore common ground among key stakeholders that will serve the best interests of the children of Sierra Leone. The Steering Committee of United Nations and non-governmental organization actors succeeded in ensuring that the Rules of Evidence and Procedure of the International Criminal Court provide for the protection of child victims or witnesses within ICC proceedings. The Special Representative urges more states to ratify the Rome Statute.

The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict was adopted by the General Assembly on 25 May 2000. The Special Representative urges further signing and ratification of the Optional Protocol. He stresses the need for increased effort to ensure the furthest possible reach of the Protocol's protective shade. The report highlights the continuing recruitment of children as soldiers.

In this report, the Special Representative highlights the plight of particularly vulnerable groups of war-affected children. He urges key actors to pay particular attention to the plight of children in these vulnerable groups.

There is an urgent need to ensure more effective monitoring of and enhancement of adherence to commitments made by parties to conflict. Only a quarter of the commitments made to the Special Representative by parties to conflict have been met. The Special Representative urges key actors including the United Nations, NGOs and other civil society actors to mobilize their resources to strengthen monitoring of these commitments.

The Special Representative acknowledges the effort already being made by the Commission to give attention to the issue of war-affected children. He welcomes the focus being given to issues of concern to children and armed conflict by some special rapporteurs. Amongst other things, he discusses one of the areas of particular concern to the Commission in the past year which touched on the work of his Office: the situation of abducted children in

northern Uganda. He provides a summary of the tragedy unfolding in northern Uganda and its impact on children, including collapse of social services and loss of livelihood as a result of war and State neglect; and the deplorable conditions in the camps, where children are not safe from abduction and rape by the rebels whilst they also face abuse at the hands of the national army, their supposed protector. Whilst welcoming the continuing work of the Commission on the issue of abducted children in northern Uganda, he urges the Commission to give attention to all aspects of the crisis.

The Special Representative makes four recommendations to the Office of the High Commissioner for Human Rights (OHCHR). He recommends that OHCHR allocate increased resources to the reconstruction or reinforcement of juvenile justice systems in countries emerging from conflict. Secondly, he hopes that participation by OHCHR in the process of developing a basic criminal justice code for transitional authorities will help ensure that those authorities' criminal procedure codes explicitly address juvenile justice concerns, and that a child rights focus is included in the training of the authorities' personnel. Thirdly, he asks OHCHR to help monitor the obligations and commitments of warring parties. Finally, he recommends that OHCHR disseminate Security Council resolutions 1261 (1999) and 1314 (2000) as widely as possible, and use them in its advocacy and training in the field.

He also recommends that the Special Rapporteurs of the Commission and its working groups make the greatest possible use of Security Council resolution 1314 (2000) by incorporating its provisions into their work in specific countries and on specific themes.

The Special Representative urges the Committee on the Rights of the Child to continue to pay attention to the long-term impact of violence on children, their families and their societies.

He urges the Commission to work with regional organizations to ensure that child protection is reflected in the mandate and conduct of every regional peace operation.

Finally, the Special Representative looks at the period ahead and summarizes some of the activities that will form the focus of the work of his Office in 2001. Emphasis will be placed on follow-up activities that will help consolidate the tangible progress realized in the past three years. In addition to the areas highlighted in his report to the General Assembly, the Special Representative will also place emphasis on the following important areas of concern:

Filling the knowledge gap. The Office of the Special Representative has identified certain gaps in knowledge on children and armed conflict, as a result of which he has proposed a research agenda in four areas: identification of trends in warfare that have led to the greater victimization of children; establishing more reliable data on children affected by armed conflict; a survey of local values that have traditionally provided for the protection of children in times of conflict; and conducting assessments of the impact of programme interventions and "lessons learned". The Special Representative has urged several actors, particularly research institutions, to adopt this agenda and take on the task of filling this gap in knowledge.

Promotion of youth participation. The Special Representative is of the view that young people must be involved as an active part of a worldwide social and political movement for the protection of war-affected children - as participants and advocates - and should be provided with opportunities for self-expression. He has advocated the development of several initiatives, amongst which are the children-to-children network and the Voice of Children initiative.

The Special Session of the General Assembly on Children, 2001. This will provide the broadest, most significant forum to ensure the continued political prominence of the issue of war-affected children. The Special Representative urges the Commission and its mechanisms to ensure that the issue is appropriately reflected in the work of the Special Session.

I. INTRODUCTION

1. This additional report to the Commission on Human Rights supplements the report of the Special Representative of the Secretary-General for Children and Armed Conflict to the General Assembly (A/55/442) and the Report of the Secretary-General on children and armed conflict (A/55/163-S/2000/712) to the Security Council and the General Assembly, and it highlights issues of particular relevance to the work of the Commission.

2. This reporting period marks the end of the first three-year mandate of the Special Representative of the Secretary-General and the beginning of the next. A detailed discussion of the progress achieved during the first mandate is to be found in the report to the General Assembly. The following is a brief summary of that progress.

3. Increased advocacy has resulted in enhanced awareness of the issue of war-affected children. The issue has been placed high on the international political agenda. Major regional organizations have adopted it as their own. The Security Council's active engagement has been reflected in a landmark resolution, 1261 (1999), establishing the protection of children affected by armed conflict as a matter of international security concern and another resolution, 1314 (2000) containing an array of targeted and new measures for the protection of war-affected children. Warring parties have made concrete commitments for children's protection. Non-governmental organizations have been galvanized by the issue, and this is reflected in their advocacy activities and operational programmes. Children's concerns are being integrated into United Nations peace operations, through mandates, reports, child protection advisers and training. The well-being of children affected by armed conflict is increasingly being included in peace agreements and has become a priority concern in post-conflict peace-building. And two significant developments - the adoption of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and the classification in the Rome Statute of the International Criminal Court of the conscription of children into the armed forces or groups or their use in hostilities as a war crime have strengthened international standards.

4. Yet much remains to be done. The protection of the rights of children affected by armed conflict must be an integral part of the work of every actor, at every level. In developing the activities for the mandate in the period ahead, particular emphasis will be placed on activities to follow-up the progress made during the period of the first mandate in order to consolidate and deepen those gains, and to ensure that emerging trends become fully embedded practices. In addition, attention will also be given to other areas of concern. Amongst other things, the Special Representative will reach out and involve young people as an active and integral part of the movement for the protection of war-affected children.

5. The present report covers recent developments in the area of addressing impunity; it also provides updates on the Optional Protocol, the work of the Office in relation to the Commission on Human Rights, the Office of the High Commissioner for Human Rights (OHCHR) and the Committee on the Rights of the Child, Security Council resolutions 1261 (1999) and 1314 (2000) and the integration of child protection into peace operations, and looks ahead at the activities of the mandate of the Special Representative in the coming period.

II. ADDRESSING IMPUNITY FOR VIOLATIONS OF CHILDREN'S RIGHTS IN THE CONTEXT OF ARMED CONFLICT

6. The need to address impunity and to bring to justice those responsible for violations of the rights of children in situations of armed conflict continues to be a preoccupation of the Office of the Special Representative. The report of the Secretary-General on children and armed conflict contains a number of pertinent recommendations, including greater cooperation among Member States in tracking the movements and activities of individuals accused of war crimes, especially crimes against children. The report also expresses concern about the state of the national justice system when children are indicted for wartime offences. The experience of Rwanda illustrates the problem created when State institutions have been weakened by conflict or there is a complete absence of a juvenile justice system. Among the more recent developments in the effort to address impunity has been the Special Court for Sierra Leone (SCSL).

A. The Special Court for Sierra Leone

7. Unlike the International Criminal Tribunals for Rwanda and Yugoslavia, which are subsidiary organs of the United Nations, the Special Court for Sierra Leone is a treaty-based, sui generis court of mixed composition and mixed jurisdiction. Pursuant to Security Council resolution 1315 (2000) the Secretary-General proposed a Statute for the Special Court after conducting extensive negotiations with the Government of Sierra Leone. As proposed by the Secretary-General in his report to the Security Council of 4 October 2000 (S/2000/915), the Court will try crimes committed in Sierra Leone after 30 November 1996 - when the first comprehensive peace agreement between the Government and the Revolutionary United Front (RUF) was concluded - including mass killings, mutilations and amputations, extra-judicial executions, torture, rape and sexual slavery, intentional attacks on civilian populations, abduction, hostage-taking, forced recruitment of children under 15 years into military or militia forces and widespread arson. The primary targets will be those persons most responsible for these crimes. The proposed SCSL strikes the difficult balance between the desire for peace and stability, the individual rehabilitation of those most affected by the war, and the imperative of justice. It offers a credible system of justice and accountability for the horrendous crimes committed in Sierra Leone since November 1996.

8. A significant proportion of the debate about SCSL has focused on the issue of accountability for those who were between 15 and 18 years of age at the time they allegedly committed serious crimes. While some young people in Sierra Leone - still children as defined by the Convention on the Rights of the Child - were among those who committed the worst crimes, they are, first and foremost, victims. Many were forcibly recruited into the warring factions as combatants; others joined voluntarily or were inducted into fighting forces through a distorted form of initiation rite. They took up arms for various reasons - to survive, to seek vengeance, to protect their families, to emulate their peers, to forge their identities as warriors or heroes, to overcome feelings of helplessness, or for lack of a better alternative. Having joined, many were drugged; some were trained and forced to commit atrocities. However, some young people joined without restraint in the most brutal and wanton violence committed in Sierra Leone against civilian life and property.

9. The international community has condemned the recruitment or use of children as soldiers and the Special Representative has worked with others to ensure that SCSL would prosecute those who abducted, recruited and used children as combatants. Yet it is reasonable to presume that some young people failed to exercise their evolving capacity to determine right from wrong, and were among those individually responsible for the worst acts of brutality in the war.

10. Those opposed to the possible prosecution of juvenile offenders have argued that many children did not understand the full import of what they were forced to do; that children who are tried will be stigmatized and will find it difficult to be reintegrated into their communities; that many children still behind the lines would be reluctant to surrender their weapons for fear of being arrested. They also suggest that the proposed Truth and Reconciliation Commission (TRC) would serve the same purpose as the trial of juvenile offenders in a special court while emphasizing reconciliation rather than punishment.

11. Those who support the extension of personal jurisdiction to persons who were between 15 and 18 at the time of the alleged crime recognize that only a small number of persons in this category are likely to be deemed by the Prosecutor as among those "most responsible" for serious violations, and yet they believe that the failure to determine individual legal culpability will send a regrettable message of impunity for child soldiers that will not go unnoticed in other conflict areas. They contend that while the Convention on the Rights of the Child and other human rights and humanitarian law standards seek to protect children from exploitation and abuse, these norms do not intend to grant impunity to all persons under age 18. The principle of juvenile justice exists the world over and in all societies the administration of justice recognizes that the capacity to distinguish right and wrong evolves with age. Surely it is hard to argue that a 17-year-old has the same capacity for moral judgement and the same understanding of individual responsibility as a 9-year-old.

12. Those who see a constructive role for juvenile justice within the Special Court note that the Court's Statute rejects the punishment of young offenders and instructs the prosecutor to ensure that the child rehabilitation programmes are not jeopardized. Any juvenile justice system should focus on promoting the young offender's reintegration and capacity to assume a constructive role in society. The young people who would come before the Special Court already suffer the stigma of the brutal murderer, the rapist, the mutilator of innocent civilians; SCSL will reduce this stigma by systematically and transparently applying international procedural guarantees. TRC will be the most appropriate forum for many young people, but alone, it does not address all the factors. Only the Special Court, they argue, can determine individual legal culpability, in accordance with internationally accepted standards of evidence and procedure, while ensuring the privacy of the juvenile proceedings. Only in the special court will the juvenile offender be able to exercise his or her right to an adequate defence and the right of appeal. Above all, they argue, a comprehensive rehabilitation process - coupled with visible accountability - will increase communities' confidence in receiving former child combatants back in their midst.

13. Above all, those engaged in this discussion have a common goal - the achievement of peace and justice in Sierra Leone - and a common interest - securing the protection of the rights and well-being of the country's children. The Special Representative has therefore sought to

find common ground amongst these different actors. On 10 November 2000 he hosted a round-table meeting on the Special Court. The Office of Legal Affairs, the Office of the High Commissioner for Human Rights (OHCHR), UNICEF, the Department of Peacekeeping Operations, persons involved in the Machel study, Save the Children, Human Rights Watch, Amnesty International and independent experts all participated. The round table provided an opportunity for participants to voice their concerns and perspectives. In particular, there were concerns that the Security Council's delay in taking a decision regarding the creation and the Statute of the Special Court had caused anxiety in Sierra Leone, in addition to misunderstanding amongst children especially, who fear that they would be rounded up in the disarmament, demobilization and rehabilitation (DDR) camps or interim care centres and imprisoned. Such perceptions might influence the choices made, for example, by child combatants yet to surrender their weapons. The uncertainty regarding the Court is also likely to generate anxiety among those adults who have recruited children and might lead them to frighten child soldiers away from the DDR process. The Special Representative emphasized the need for dissemination of accurate information in the field to address the concerns of these children.

14. On 22 December 2000 the President of the Security Council conveyed to the Secretary-General the Council's proposed amendments to the Statute proposed on 4 October 2000 (S/2000/1234). Although the Council proposed language that retained the principle of juvenile justice, the Special Representative expressed concern over the fact that the amended provision (i) stipulates no minimum age for juvenile prosecutions; (ii) omits the important guarantees outlined in the original Statute; and (iii) does not clearly eliminate the possibility of imprisonment for persons accused of crimes committed between ages 15 and 18. He urged that the Secretary-General propose to modify the Security Council's language to incorporate age 15 as the minimum age for the prosecution of a juvenile offender, and to stipulate that in its disposition of juvenile cases the Special Court shall not consider imprisonment as an option. He also urged that in his reply the Secretary-General might call upon the Special Court to refer to the guarantees enumerated in the earlier version of the Statute, when prosecuting a juvenile offender.

15. The Special Representative was very pleased with the Security Council's suggestion that the wording of the war crime of child recruitment found in the Rome Statute of the ICC be incorporated into the Statute of the Special Court. He feels that while the amended language might give rise to a defence on the grounds of nullem crimen sine lege, the Security Council's determination to advance the law in this area and step up efforts to hold adult recruiters of children accountable is highly commendable.

16. The Security Council contemplated the possible prosecution of peacekeepers, and indicated that the Special Court would have jurisdiction over peacekeepers only when the troop-contributing nation failed to discharge its responsibility to investigate and prosecute any crimes allegedly committed by its troops in Sierra Leone. The Special Representative subsequently pointed out that abuses of children by peacekeepers are not unheard of and should be the subject of vigorous investigation and, when appropriate, prosecution. He urged that the Secretary-General appeal to troop-contributing nations and to the Security Council to pay particular attention to allegations of such crimes and to work together to ensure that they are adequately investigated, prosecuted and, if necessary, brought to the Special Court.

17. Finally, regarding the Truth and Reconciliation Commission and its role vis-à-vis juvenile offenders, the Special Representative expressed support for the Security Council's view that TRC will have a major role to play in the case of juvenile offenders. He has proposed that his Office work very closely with the Office of Legal Affairs, OHCHR, UNICEF and others to help ensure that TRC and the Court are mutually supporting institutions and that they work together to advance the best interests of children in Sierra Leone.

B. The Steering Committee on Children and Justice

18. In December 1999, at the suggestion of the Special Representative a steering committee of United Nations and NGO actors was formed to ensure that child rights figured prominently in the work of the Preparatory Commission on the Rules of Evidence and Procedure for the International Criminal Court (ICC). The Steering Committee on Children and Justice undertook a series of initiatives during the first half of 2000 (see A/55/442, para. 16), and succeeded in ensuring that the Rules of Evidence and Procedure of the Court include several important provisions to protect children who participate in Court proceedings as victims or witnesses. The Special Representative welcomes the advances made in the development of the International Criminal Court, particularly in the conclusion of the Rules of Evidence and Procedure, and urges more States to ratify the Rome Statute.

19. The Steering Committee has now expanded its agenda to include the protection of children in other truth and justice-seeking mechanisms. This issue has been at the heart of much of the debate surrounding the Special Court for Sierra Leone. It will also be a relevant concern in East Timor as authorities there contemplate setting up a truth commission process. The Steering Committee plans to inform the debate further by convening an expert seminar on this issue early in 2001.

III. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD

20. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict has served to strengthen international instruments that protect war-affected children. The General Assembly adopted the Optional Protocol on 25 May 2000. Paragraphs 9 and 10 of the Secretary-General's report and paragraph 129 of the report of the Special Representative to the General Assembly discuss the Optional Protocol, which raises the minimum age of conscription from 15 to 18; calls on States to take "all feasible measures" to ensure that members of their armed forces under age 18 do not take a direct part in hostilities; and bans the recruitment of under-18s by rebel and insurgent groups "under any circumstances".

21. To date 75 States have signed the Optional Protocol; 3 have ratified it. It will enter into force three months after the deposit of the tenth instrument of ratification. The Special Representative believes it would be appropriate if the tenth instrument of ratification could be deposited by the first anniversary of the Optional Protocol's adoption by the General Assembly.

22. But much more sustained and determined efforts are required if child soldiering is to be curbed on the ground. In numerous conflict zones around the world children continue to be recruited and to participate in armed groups and forces, sometimes in blatant disregard of

commitments made by particular parties in conflict to refrain from the recruitment or use of children within their forces. A recent example is the continued recruitment of child soldiers in the Democratic Republic of the Congo.

23. The Child Protection Advisers with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) have reported recently on the continued use of child soldiers in the armed conflict there (see S/2000/1156 of 6 December 2000). On 9 June 2000 President Laurent Kabila signed a decree for the establishment of a national commission on demobilization and reintegration which would ban the recruitment of children under 18 into the armed forces. The next phases of the disarmament, demobilization and reintegration process are to be overseen by an inter-ministerial committee, which, when finally established, will be headed by the Ministry of Defence and the Ministry of Human Rights. The Special Representative expresses the hope that this commission will become operational soon.

24. Despite this development, the MONUC Child Protection Advisers have reported that between 15 and 30 per cent of newly recruited combatants in the Democratic Republic of the Congo are children under 18 years of age, with a substantial number under age 12 (ibid.). On 15 and 16 November, the local radio and television station at Goma broadcast an appeal from the head of the Rassemblement congolais pour la démocratie (RCD) inviting parents to allow their children to be recruited into the movement's military forces. The Governor of North Kivu Province reiterated the call for children to be enrolled for local defence.

25. Additionally, MONUC has received confirmation of the cross-border deportation of recruited Congolese children from the Bunia, Beni and Butembo regions to Uganda, following the August "mutiny" of troops against the leadership of Rassemblement congolais pour la démocratie - Mouvement de libération (RCD-ML). A number of steps have been taken to address this problem. Firstly, the Special Representative of the Secretary-General in the Democratic Republic of the Congo contacted RCD leadership drawing attention to violations under the Convention on the Rights of the Child. Secondly, as a result of joint advocacy by MONUC and UNICEF, RCD-ML has taken steps towards establishing a coordination unit for the demilitarization, demobilization and reintegration process in areas under its control. Similar efforts are directed at MLC. Thirdly, the Child Protection Advisers in MONUC and UNICEF have proposed a media campaign on child soldiers (ibid.).

26. On 15 December 2000 the Security Council adopted resolution 1332 (2000). Amongst other things, the Council, expressing grave concern about "the continued recruitment and use of child soldiers by armed forces and groups, including cross-border recruitment and abduction of children" called on "all armed forces and groups immediately to cease all campaigns for the recruitment, abduction, cross-border deportation and use of children", and demanded "immediate steps for demobilization, disarmament, return and rehabilitation of all such children with the assistance of the relevant United Nations and other agencies and organizations".

27. As the Special Representative has often stated, international attention and resources must be directed now to developing a major international movement to apply pressure on armed

forces and groups that are currently using children as combatants, to addressing the political, economic, and social factors that facilitate the exploitation of children as soldiers, and to ensuring effective programmes for the demobilization, rehabilitation and reintegration of children who have already served within a fighting force.

IV. ADDRESSING AREAS OF SPECIAL VULNERABILITY

28. The Special Representative should like to highlight some particular areas of vulnerability for children affected by armed conflict. They include the special needs of girls affected by conflict; internally displaced children; the provision of education for war-affected children; the rapid spread of HIV/AIDS in the corridors of armed conflict; the impact of sanctions on children; and the liberation of abducted children. They are addressed in some detail in the report of the Secretary-General. The Special Representative would like to draw attention to the plight of children in these vulnerable groups, and urge key actors in areas affected by armed conflict to pay particular attention to addressing their needs.

V. MONITORING COMPLIANCE WITH COMMITMENTS MADE BY PARTIES TO CONFLICT

29. In each of his country visits, the Special Representative has made a priority of eliciting commitments from parties to conflict on protecting the rights and well-being of children. To date he has obtained 36 such commitments. Yet only a quarter of these have in any way been met. There is an urgent need to ensure more effective monitoring of commitments made by parties to armed conflict, as well as adherence to obligations under international humanitarian law.

30. It is important to explore ways in which these commitments could be more effectively monitored. The Special Representative urges NGOs, United Nations country teams, research institutions and other actors to explore energetically ways to strengthen monitoring and adherence to the commitments made by parties to armed conflict.

31. Child Protection Advisers (CPAs) constitute one of the creative ways of addressing the issue of monitoring commitments. The CPAs in certain peacekeeping operations have proven to be a great source of information in the field. For example, extensive insights from the CPAs in MONUC are already being fed into the reports of the Secretary-General to the Security Council and into the deliberations of the Committee on the CRC. The Special Representative urges improved monitoring by NGOs, Field Offices of OHCHR, United Nations peacekeeping and peace-building missions, regional peacekeeping operations, and all those with the capacity to do so.

VI. THE COMMISSION ON HUMAN RIGHTS

32. In April 2000, the Special Representative urged the Commission to make the rights of children affected by armed conflict a central concern throughout its work, as reflected in the mandates accorded to special rapporteurs and other extraconventional mechanisms, and as reflected subsequently in its resolutions. He also emphasized the importance of the Commission's extraconventional mechanisms and the Sub-Commission on the Promotion and

Protection of Human Rights in deepening the Commission's understanding of war-affected children. He was pleased to note that a number of reports to the Commission last year did highlight the plight of children in armed conflict or post-conflict situations, and he has worked closely with special rapporteurs to ensure that the Commission is once again presented with comprehensive information on children and armed conflict in the year 2001.

A. Resolutions and reports under extraconventional mechanisms

33. During the fifty-sixth session of the Commission on Human Rights in 2000, issues of concern to war-affected children were included in reports submitted by various special rapporteurs and experts under the extraconventional mechanisms of the Commission, and in reports submitted by OHCHR. These reports include those of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his visit to the Sudan (E/CN.4/2000/63/Add.1); the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/2000/68); the Representative of the Secretary-General on internally displaced persons (E/CN.4/2000/83); the Special Rapporteur on the situation of human rights in the occupied Palestinian territories (E/CN.4/2000/25); the Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, Croatia and Yugoslavia (E/CN.4/2000/39); the Special Representative on the situation of human rights in Rwanda (E/CN.4/2000/41); the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2000/3); the annual report of the High Commissioner for Human Rights (E/CN.4/2000/12) and the report of the High Commissioner on the office in Colombia (E/CN.4/2000/11); and the report on the Workshop on Implementing the Guiding Principles on Internal Displacement (E/CN.4/2000/83/Add.2, annex).

34. The Commission gave considerable attention to the issue of children affected by armed conflict last year, as reflected in a number of resolutions. These include resolutions on the situation of human rights in the Democratic Republic of the Congo (2000/15), Afghanistan (2000/18), Myanmar (2000/23), Sierra Leone (2000/24) and the Sudan (2000/27). Three other resolutions - on the question of draft optional protocols to the Convention on the Rights of the Child (2000/59), the abduction of children from northern Uganda (2000/60) and assistance to Somalia in the field of human rights (2000/81) - also touched on the issue of children affected by armed conflict.

35. To help ensure that child rights and protection are more systematically included in reports to the Commission, the Office of the Special Representative has attempted to work closely with relevant experts and rapporteurs of the Commission in advance of the fifty-seventh session. He welcomes the recognition by the Special Rapporteur on the right to education in her forthcoming report of the gaps in education strategies for children in countries affected by war. She highlights two crucial issues. Firstly, intergovernmental approaches to gender in education focus exclusively on girls, when it is boys' education that often sows the seeds of war's appeal. Schools, she stresses, must not socialize boys into the roles of combatants. Secondly, education strategies during peace-building processes tend to focus on primary education, which invariably neglects the education of adolescents; yet it is adolescents who provide the most fertile recruiting ground for those who would return to violence.

36. The Special Representative will work with the Special Rapporteur on the right to education to advocate the inclusion of the education needs of adolescents in post-conflict peace-building efforts in war-affected countries and to raise awareness about the socialization processes in schools and communities. The Office of the Special Representative and the Special Rapporteur on the right to education will work together to advance the recommendations made on education in the report of the Secretary-General on children and armed conflict.

37. The Office has also worked with the Special Rapporteur on violence against women, whose 2001 report to the Commission addresses the theme of women and armed conflict. This forthcoming report highlights the particular plight of girls who have suffered abuses such as rape and sexual molestation during armed conflict and the difficulties they experience in reintegrating into their families and communities in the aftermath of war. The Office of the Special Representative encouraged the Special Rapporteur to refer in her report to Security Council resolutions 1261 (1999) and 1314 (2000) and to the pertinent parts of the report of the Secretary-General on children and armed conflict, and furnished her with bibliographical and other background materials.

38. The Special Representative reiterates his appeal to the Commission to make the rights of children affected by armed conflict a central concern throughout its work, as reflected in the mandates accorded to special rapporteurs and other extraconventional mechanisms, and as reflected subsequently in its resolutions. The Special Representative also urges all special rapporteurs and extraconventional mechanisms, as well as the Office of the High Commissioner, to monitor systematically the implementation of Security Council resolutions 1261 (1999) and 1314 (2000) on children and armed conflict and to provide relevant information on the situation of child rights in areas of armed conflict and post-conflict to the Commission for its consideration and action.

39. Two areas of particular concern to the Commission on Human Rights last year, manifested in its resolutions and touching on the work of the Special Representative, are Chechnya in resolution (2000/58) and Uganda (2000/60). Please see reference to Chechnya in paragraph 68 below.

B. The situation in northern Uganda

40. There is a major human rights and humanitarian crisis unfolding in northern Uganda. The crisis has several dimensions. Firstly, a war has raged in the northern part of the country for more than a decade, and no party appears to have the desire to bring it to an end. Social services and medical infrastructure in the north of the country have collapsed as a result of the conflict and a pattern of State neglect of the region. Agriculture and commerce have been completely disrupted in Kitgum and Gulu districts, for example.

41. Secondly, innocent civilians, including women and children, in northern Uganda are caught between the brutality of the Lord's Resistance Army (LRA) and the abuse of the armed forces. It is estimated that thousands of children have been abducted and forced to join LRA since 1988. Most of the abductees - who may have witnessed the murder of their kin and who

are forced into servitude as soldiers, porters, cooks and sexual slaves - remain in the hands of LRA. Many of these children have been forced to commit brutal crimes against their peers and communities. At least 100,000 children live under the constant threat of abduction.

42. Thirdly, more than 400, 000 people were relocated to camps - "protected villages" - ostensibly for their own protection, but they derive no benefit from being uprooted. They live in appalling conditions and the absence of social amenities has ensured that the camps have the highest rates of infant mortality in Uganda. Nor has the Government provided protection. In most cases the soldiers occupy the centre of the camps while those they are supposed to protect live around the periphery, where LRA can abduct and rape children at will; in others, IDPs have become prey to their protectors.

43. The Commission on Human Rights has been seized with one aspect of the problem of northern Uganda: that of abducted children. The Office of the Special Representative will collaborate with the Office of the High Commissioner for Human Rights in the latter's forthcoming mission to northern Uganda, to assess at first hand the situation of the region's children. The Special Representative welcomes the continuing work of the Commission on the issue of abducted children and calls on it to turn its attention to all aspects of the human tragedy unfolding in northern Uganda, to bear witness, and to encourage the development of relevant programmes to address this problem.

VII. THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

44. A detailed description of the work of the Office of the Special Representative with OHCHR over the first eight months of this year is to be found in paragraphs 44-47 of the report to the General Assembly. Since that time the Office is pleased to note the near finalization of the OHCHR Field Guide on Human Rights. The Field Guide contains a chapter on children's rights, which the Office of the Special Representative has reviewed and provided comments on to OHCHR. The Special Representative hopes that, as a result of the dissemination and use of this Field Guide, more systematic monitoring and reporting on the situation of children in armed conflict situations will be undertaken by OHCHR field presences.

45. The report of the Special Representative to the Commission of January 2000 also called for child rights monitoring guidelines for OHCHR field offices and special procedures. OHCHR has suggested that the Office of the Special Representative draw up a background note to be transmitted to the Chairperson of the annual meeting of special rapporteurs/representatives, experts and chairpersons of working groups. The Office intends to take up this suggestion.

46. In January 2000 the Special Representative also recommended that monitoring and reporting on children's rights be included in the mandates of OHCHR's field offices, and that these offices be provided with experts where necessary. In follow-up discussions OHCHR has stated that it is amenable to seeking human rights staff with expertise in children's rights to be deployed in a range of locations, for example, Colombia. The Special Representative welcomes this development.

47. As has always been the case, the Office of the Special Representative has relied on the field presence of OHCHR during country visits. The OHCHR field offices have often worked closely with the Office of the Special Representative and facilitated its work.

48. The Special Representative would like to make four new recommendations to OHCHR concerning its work on the protection of the rights of children affected by armed conflict in the year ahead. First, he proposes that OHCHR allocate increased resources to the reconstruction or reinforcement of juvenile justice systems in countries emerging from conflict. Technical assistance - in the form of legislation, institutions and human resources - is particularly important.

49. Second, the Secretary-General, in his recommendations on the report of the panel on United Nations Peace Operations (the Brahimi report), addressed the issue of the creation of interim "rules" of criminal law and criminal procedure. A team drawn from various United Nations organs is expected to produce the first draft of interim rules by July 2001 (see A/55/502, paras. 31-34). The Special Representative hopes that OHCHR's participation in this process will help ensure that criminal procedure codes for transitional authorities explicitly address juvenile justice concerns, and that a child rights focus is included in the training of transitional authority personnel.

50. Third, he asks OHCHR to help monitor compliance with the obligations and commitments made by parties to conflicts, and to systematically provide reliable information on compliance with these obligations and commitments to the Security Council, the General Assembly, the Committee on the Rights of the Child and the Commission on Human Rights.

51. Finally, the Special Representative recommends that OHCHR employ Security Council resolutions 1261 (1999) and 1314 (2000) on children and armed conflict as a basis for its field monitoring, its reporting, its advocacy initiatives on behalf of war-affected children, and its training of staff and local officials and NGOs in the field.

VIII. THE COMMITTEE ON THE RIGHTS OF THE CHILD

52. The Committee on the Rights of the Child has the primary role in the monitoring of States parties' compliance with the Convention on the Rights of the Child. The Special Representative has maintained regular contact with the Committee.

53. On 22 September 2000 the Committee held a day of general discussion on " State violence against children". One of the many issues discussed which were relevant to the work of the Office of the Special Representative was that of traditional methods of justice as a possible alternative to involving children in the formal criminal law system (which can expose children to violence). Debate also touched on the need to ensure that such methods comply fully with international human rights standards relating to the treatment of children accused of committing criminal offences. This is relevant to the ongoing debate generated by the Office of the Special Representative and referred to in section II.A on the role of children in truth and justice-seeking processes in the aftermath of grave abuses committed in wartime.

54. The Office of the Special Representative has endeavoured to ensure that the Committee receives relevant information from the field. The terms of reference for the post of Child Protection Adviser (CPA), which the Office of the Special Representative developed with UNICEF, Department of Peacekeeping Operations, OHCHR and UNHCR, stipulate that the CPA: should keep abreast of developments on the implementation of the Convention on the Rights of the Child and the preparation of States parties' reports to the Committee; ensure that relevant concluding observations adopted by the Committee are taken into consideration in the work of the mission; and provide UNICEF with appropriate information on the work of the mission relevant to the implementation of the Convention. The Office of the Special Representative has encouraged the Child Protection Adviser within the United Nations Mission in Sierra Leone (UNAMSIL) to ensure that relevant concluding observations adopted by the Committee on the Rights of the Child in January 2000 are taken into consideration in the work of the mission.

55. The Office ensured that information obtained by the two Child Protection Advisers with MONUC was provided to the Committee on the Rights of the Child before its deliberations in January 2001. The Office of the Special Representative also contributed material for the Committee members to consider when formulating additional questions as part of their examination of the periodic report of the Democratic Republic of the Congo on its implementation of the Convention.

56. In December 2000 the Office also provided Committee members with a memo detailing issues of particular importance for children in the aftermath of the lengthy civil war in Guatemala, given that children's issues were overlooked during the peacemaking process. It urged the Committee to pursue these issues in its review of Guatemala's second periodic report to the Committee in January 2001. Issues included:

(a) The importance of ratifying and implementing the optional protocol to the Convention on the involvement of children in armed conflict and of declaring 18 as the minimum age for voluntary enlistment in the armed forces;

(b) The importance of ratifying and implementing the Worst Forms of Child Labour Convention (No. 182) of the International Labour Organization and the protection of children from hazardous or abusive labour conditions;

(c) The importance of the entry into force and full implementation of the national Children and Adolescents Code;

(d) The importance of rebuilding and strengthening indigenous norms and value systems that protect children from abuse - including domestic abuse;

(e) The urgent need to improve the accessibility and quality of education, particularly in the rural highlands and in indigenous languages;

(f) The importance of immediately reforming and strengthening the administration of juvenile justice, and the legal and institutional framework for protecting children who are at risk of abuse or neglect; and

(g) Sustained attention to the psychosocial and emotional impact of the conflict on children, families and communities.

57. In January 2000 the Committee considered the initial report of South Africa (see CRC/C/15/Add.122). The Committee expressed concern at the insufficient efforts to rehabilitate children affected by violence during the apartheid era and noted that this neglect is manifesting itself in the country's current high levels of violence and crime. The Special Representative wholly endorses the Committee's recommendation that more measures should be taken to facilitate the rehabilitation and reintegration of the children affected by armed conflict, and is pleased to note its advocacy of the provision of adequate and sustained resources for attention to children after conflict. In the absence of sustained programmes, the Committee found, young people are trapped in cycles of violence - albeit domestic criminal violence as opposed to warfare. This finding is significant for the work of the Office of the Special Representative. The Special Representative urges the Committee to continue to pay attention to the long-term impact of violence on children, their families and their societies.

58. Finally, the Special Representative has expressed his support for the comprehensive set of recommendations and observations made by the Committee on the Rights of the Child in its recent review of the second periodic report of Colombia (CRC/C/15/Add.13). He strongly supports the many salient points made throughout the concluding observations and especially appreciates the calls to prioritize children's rights within the peace process, respect Security Council resolution 1261 (1999), protect children from the war's negative impact, and attend to the particular concerns of internally displaced children. He appreciates the Committee's endorsement of the recommendations made in his report on his visit to Colombia in 1999 and looks forward to working with the Government of Colombia, the international community, local NGOs and civil society in following up these recommendations.

59. The Special Representative urges the Committee to follow-up, in its review of relevant States parties reports on the implementation of the Convention, on the extent to which pertinent aspects of Security Council resolutions 1261 (1999) and 1314 (2000) on children and armed conflict have been implemented.

IX. SECURITY COUNCIL RESOLUTION 1314 (2000)

60. During the past year the Special Representative has continued to work to embed the issue of children affected by armed conflict in the agenda of the Security Council. This has borne fruit in numerous ways. The Office of the Special Representative served as the focal point for the preparation of the first report of the Secretary-General on children and armed conflict, presented to the Security Council on 19 July 2000. Called for in Security Council resolution 1261 (1999), the report presented more than 50 recommendations, which were then discussed in an open debate. For the first time the Security Council was formally presented with a comprehensive overview of the issues and the ongoing efforts to address them, with recommendations for various actors.

61. Many of the report's recommendations were then reflected in Security Council resolution 1314 (2000). This is a highly significant resolution. While resolution 1261 (1999) provides the strategic overview and remains a primary point of reference and source of

legitimacy for the issue of children affected by armed conflict, resolution 1314 (2000) specifies an impressive array of targeted measures for the protection of children in conflict. It places responsibilities on State, non-State and regional actors alike. It identifies ways of curbing the activities of children's abusers. And it proposes measures that, if implemented, will add materially to their protection.

62. The Special Representative urges the Commission on Human Rights to make systematic use of resolution 1314 (2000) in the protection of the rights and well-being of children in situations of armed conflict. He also urges the special rapporteurs of the Commission and its working groups to incorporate the provisions of the resolution into their work in specific countries and on relevant themes, and he proposes that human rights field offices monitor the extent to which resolution 1314 (2000) is being adhered to in their various areas of operation.

63. It is important that the deliberations of the Security Council on this issue are reflected in substantive action on the ground. NGOs remain a highly effective channel for translating the resolutions of the Security Council into concrete action. Thus, it is important that greater interaction be forged between NGOs and members of the Security Council on the issue of children affected by armed conflict. As a first step, the Special Representative facilitated an Arria Formula meeting between key NGOs working on the rights and protection of children affected by armed conflict and members of the Security Council.

X. INTEGRATING CHILD PROTECTION INTO PEACE OPERATIONS

64. The Special Representative is continuing his efforts to ensure the inclusion of child protection in United Nations peace operations and to strengthen those measures already in place. This involves several strands of activity. Firstly, the Special Representative consistently presses for the inclusion of children's rights in the mandates and operations of new peace operations. The Child Protection Adviser has proved a successful multifunctional innovation. For instance, in UNAMSIL the CPA has joined forces with the Human Rights Section, UNICEF and other child protection actors to ensure that newly deployed and rotated troops receive appropriate training in children's rights. In consultation with UNICEF and others, the Office of the Special Representative has begun an assessment of the work of CPAs in the field to find ways of improving their capacity and effectiveness and so build on this success.

65. The Office of the Special Representative is also working to incorporate the issue of war-affected children in the peace and security structures that emerge from the implementation of the Secretary-General's recommendations on the Brahimi report. The implementation of the Secretary-General's recommendations would represent a fundamental shift in those structures. The Office of the Special Representative has worked to ensure that child protection would be included in every significant change. Integrated Mission Task Forces (IMTFs) - a Secretariat management tool to ensure that relevant parts of the United Nations system are involved in the planning of key missions and during periods of crisis - would include input from the Office of the Special Representative. The ECPS (Executive Committee on Peace and Security) Strategic Information and Analysis Secretariat (EISAS) would ensure that operational strategies are consistent, serve as an in-house centre of knowledge, and be the focal point for inter-agency conflict prevention; the children's rights perspective will be provided by personnel seconded from UNICEF. CPAs will form part of the Mission Leadership component rapidly deployed at

the beginning of any operation. And the Office of the Special Representative will have input in the potentially far-reaching project to draw up a United Nations peacekeeping doctrine to serve as the basis for troops' direction in the field.

66. But the benefits and experience of integrating child protection must be extended beyond the United Nations. Security Council resolutions 1261 (1999) and 1314 (2000) identified the need for regional organizations to adopt the issue of children affected by armed conflict. Paragraphs 70-81 of the report of the Secretary-General on children and armed conflict and 25-35 of the report of the Special Representative to the General Assembly outline the efforts of several regional organizations to advance the cause of children affected by armed conflict. Since then, the Economic Community of West African States (ECOWAS) has moved a step closer in its effort to establish a Child Protection Unit, which is expected to become operational in the first half of 2001. The work of this Unit will filter through the organization as a whole, as well as its peace operations. And the Organization for Security and Cooperation in Europe (OSCE) is negotiating a major document on children's rights. These efforts are just a beginning. Child protection must be included in the work of every regional peace operation.

XI. LOOKING AHEAD

67. In developing the activities for the mandate of the Special Representative in the years ahead, emphasis will be placed on follow-up activities to the work during the first mandate. These activities have already been highlighted in the report of the Special Representative to the General Assembly. In addition, attention will be given to other areas of concern and activities, some of which are summarized below.

A. Visits to war-affected countries

68. In 2001, the Special Representative plans to visit war-affected countries that he had not previously visited to assess at first hand the conditions of children and identify key measures and initiatives needed to ensure their protection, rights and well-being. One such visit will be to the Russian Federation. Following ongoing discussions with representatives of the Russian Federation since the outbreak of the conflict in Chechnya, the Special Representative received a letter from the Minister for Foreign Affairs of the Russian Federation inviting him to visit the Federation, including the area of the North Caucasus. The letter stated that the invitation had been extended to the Special Representative in the context of the general exercise of his mandate and not in connection with Commission on Human Rights resolution 2000/58. The Office of the Special Representative is now preparing to conduct a country visit in the first quarter of 2001.

69. In addition to the new visits, the Special Representative will conduct follow-up visits to war-affected countries previously visited. Amongst other things, he will follow-up on the commitments made to him by parties to armed conflict in those countries.

B. Filling knowledge gaps

70. The Special Representative has long felt that more detailed knowledge about the scope of the problem of children affected by armed conflict and better coordination of available knowledge on the issue will enhance the work being done to advance the protection of the rights

and well-being of children in situations of armed conflict. Experience over the last three years has indicated that there are major gaps in the available data and literature on children and armed conflict. Currently, there is no accurate knowledge of how many children are affected by armed conflict in the different regions of the globe. Several figures are offered by different sources; some of them are outdated, others are contradictory or unreliable.

71. The Office of the Special Representative proposes a research agenda on children affected by armed conflict, to focus initially in the following four areas: identification of trends in warfare that have led to the greater victimization of children; establishment of more reliable data on children affected by armed conflict; a survey of local values that have traditionally provided for the protection of children in times of armed conflict; and assessments of the impact of programme interventions and "lessons learned".

72. The Special Representative has sought to encourage relevant actors, particularly research institutions, to launch a network of research institutions and organizations to take on the task of filling these gaps in knowledge.

C. Promoting youth participation

73. The Special Representative is of the view that young people must be involved as an active part of a worldwide social and political movement for the protection of war-affected children, as participants and advocates, and should be provided with opportunities for self-expression. In this connection, the Office of the Special Representative continues to advocate the development of several initiatives. One such initiative is the children-to-children network. This involves building links between children in war-affected countries and their counterparts from countries at peace, so that they can learn about each other's vastly different experiences, including the situation of human rights, particularly child rights, in their countries, build solidarity among themselves, and enable children to act as advocates on behalf of other children. Modern information technology, including the Internet, should be employed to facilitate such communication and exchange among young people.

74. In addition, the Special Representative has noted an absence of and hunger for information, recreation and entertainment among children in situations of conflict and in its aftermath. To fill this gap, the Office of the Special Representative has proposed the systematic development of radio stations and programmes -"Voice of Children" - devoted mainly to the needs and interests of children and young people in those situations. This would serve to give voice to children's concerns, offer education in several areas, including human rights, training and entertainment, promote tolerance and reconciliation, and raise awareness of the rights and protection of children. He will continue to encourage all relevant actors to take on this project.

D. Follow-up to international conferences on war-affected children held in 2000

75. The report of the Special Representative to the General Assembly discusses the various international conferences on war-affected children that have been held since the beginning of the mandate of his Office (see paras. 95-100). The largest of these conferences, held in Winnipeg, Canada, in September 2000, produced specific outcomes, which a steering committee has been

requested to follow-up. The outcome document, the Winnipeg Agenda, amongst other things urged States to: fulfil their obligations to children, including the signing, ratification and implementation of the Optional Protocol; increase accountability and end impunity; and end the targeting of children. The follow-up to the Winnipeg Agenda will form part of the Special Representative's focus in 2001.

76. Similarly, the Special Representative participated actively in the Accra Conference on War-Affected Children co-hosted by the Governments of Ghana and Canada in April 2000. He also attended a public symposium on children and armed conflict in Tokyo in November 2000 and his Office participated in a seminar on child soldiers, also in held in Tokyo during the same period. The Office of the Special Representative will work with relevant actors to follow-up on the outcomes of these conferences.

E. Special Session of the General Assembly on Children, 2001

77. The Special Session of the General Assembly on Children to be held in September 2001 will provide the broadest, most significant forum for the discussion of children's issues among Member States, and between Member States and NGOs. The Special Representative has expressed a desire for an important, substantive outcome from the Special Session, and is convinced that the issue of war-affected children must form a distinct component of that outcome. In his address to the delegates to the first substantive Preparatory Committee in May 2000, he called for explicit attention to the theme of children affected by armed conflict - one which was under-addressed at the World Summit for Children, in 1990 and which has been elevated to the top of the international political agenda in the intervening decade. He also outlined a number of issues which should be addressed within the broader theme of war-affected children, and asked Member States to adopt indicators of progress on these issues. The Special Session offers a singular opportunity to ensure the continued political prominence of the issue of war-affected children. His Office is working very closely with UNICEF and the NGO community to bring this about.

F. United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects

78. The Special Representative has worked actively through the mechanism for Coordinating Action on Small Arms (CASA) to ensure continued attention to the issue of children and child soldiers. Through the same medium, his Office will seek to participate in this conference and in the preparatory process leading up to it. In particular, he will work with others to highlight the linkage between the proliferation of small arms and the victimization of children and their use as soldiers.